

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13

MANUEL R. SALAZAR,

CASE NO.: 17-23418-rdd

Debtor.

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**ORDER DETERMINING VALUE OF REAL PROPERTY AND DENYING
DEBTOR'S MOTION TO AVOID LIEN PUSUANT TO 11 U.S.C. § 1322(b)(2)**

WHEREAS, on September 14, 2017, Manuel R. Salazr (the "Debtor") filed a voluntary petition for relief under chapter 13 of the Bankruptcy Code, commencing this chapter 13 case; and

WHEREAS, the Debtor owns real property in which he resides, located at 183 Brookdale Avenue, New Rochelle, NY 10801 (the "Property");

WHEREAS, the Property is subject to two mortgages. The first mortgage is held by U.S. Bank National Association, as Trustee, in trust for the registered holders of Citigroup Mortgage Loan Trust, Asset-Backed Pass-Through Certificates, Series 2007-AHL3, which is serviced by Select Portfolio Servicing, Inc., with a claim asserted in the sum of \$390,695.95 (Claim No. 16). The second mortgage is held by Gustavia Home LLC with a claim asserted in the sum of \$226,991.80 (Claim No. 2);

WHEREAS, the Debtor sought to avoid the junior mortgage lien of Gustavia Home, LLC pursuant to 11 U.S.C. §§ 506(a) and 1322(b)(2) and his chapter 13 plan by a motion dated January 9, 2018, attaching an appraisal of the Property of \$360,000.00 (the "Motion");

WHEREAS, Gustavia Home, LLC filed an objection to the Motion on June 26, 2018, attaching an appraisal of the property of \$520,000.00;

WHEREAS, to prevail on the Motion, the Debtor must show that the Property does not have a value in excess of the debt secured by the first mortgage on the Property;

WHEREAS, to decide the foregoing issue, the Court held a trial on April 23, 2019, at which it considered the expert testimony of the real estate appraiser for the Debtor and the appraiser for Gustavia Home, LLC and all related evidence admitted into the record;

AND, upon the record of the April 23, 2019 trial, including the testimony adduced and evidence admitted, after due deliberation and for the reasons stated by the Court in its bench ruling at the conclusion of the trial, the Court having found and concluded that the Property has a value of \$400,000.00;

NOW THEREFORE, upon the foregoing recitals, which are incorporated as though fully set forth herein, it is hereby

ORDERED, ADJUDGED AND DECLARED that the value of the Property is \$400,000.00; and it is further

ORDERED that Motion accordingly is denied.

Dated: White Plains, New York
May 9, 2019

/s/ Robert D. Drain
United States Bankruptcy Judge